REMARKS

This Response is submitted in reply to the final Office Action mailed on July 24, 2007. Claims 1-4, 7, 9-11, 13-17 and 19-22 are pending in the patent application. Claims 1, 10, 13 and 20 have been amended. No new matter has been added by this Response.

Claims 10 and 11 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the Examiner states that claim 10 recites the limitation "the fixed, solid end wall of the second end of the body" in lines 9-10 and states that there is insufficient antecedent basis for this limitation. Applicant has amended claim 10 to provide proper antecedent basis for this limitation. Applicant therefore respectfully requests that the rejection of claims 10 and 11 under §112 be withdrawn.

Claims 1-4, 7, 9, 13-17 and 19-22 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,949,510 to Johnson ("Johnson") in view of U.S. Publication No. 2003/0102416 A1 to Adams ("Adams"). Applicant disagrees with and traverses this rejection for the following reasons.

Johnson discloses a device for retrieving minnows from a bucket to be used, among other things, for fishing. Then the retriever of Johnson includes a handle connected to a tubular trap 4. More specifically, the tubular trap 4 is pivotally connected to the handle 2 (col. 1, lns. 63-68). Also, the trap is pivotally connected to the handle so that when the trap is lifted off the bottom of the bucket, it will assume a vertical deposition with its open end presented upright of the minnow so that the minnow in the trap can not escape (see the Abstract).

Adams discloses a self-locking pivotal connector that can be used as a fish net and a handle (see the Abstract). The device includes a disengageable locking element that pivotally releasably locks the device into and out of at least one position (see the Abstract). The device 10

includes first and second members, respectively 12 and 14. As shown by Adams, the device is pivotal between a stored position shown in FIG. 1 or FIG. 7 and a used position shown in FIG. 8.

In the outstanding rejection, the Examiner states that "it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Johnson to use a locking, non-rotating handle as taught by Adams for the well known advantage of preventing the trap from rotating during use, thereby making fish catching easier for a user." (see the Office Action, pg. 3). Applicant respectfully disagrees.

A person of ordinary skill in the art would not be motivated to combine Johnson with Adams to provide a fish catching device with a rotatable handle where Johnson does not disclose or suggest such a handle.

As stated above, Johnson discloses a handle that is rotatably connected to a body so that the body can rest on the bottom of the bucket as shown in FIG. 1. This enables the device to be inserted into a bucket at any angle or location and the body will be flat on the bottom of the bucket because of the rotatable handle. Thus, a person of ordinary skill in the art would not combine Johnson with Adams to achieve the non-rotatable handle of the claimed invention, where Johnson specifically discloses that his fish catcher is rotatable as described above, and does not disclose any type of non-rotatable feature.

Nevertheless, even if Johnson and Adams are combined, the combination does not disclose or suggest the elements of the claimed invention.

Amended claim 1 recites, among other things, that the fish catching device includes a handle and a body where the body is a tube of unitary construction having "a solid side wall." As shown in Johnson, the tubular trap 4 has a side wall which has several apertures 18 that enable water to drain from the trap. Additionally, Adams discloses that the second member 1014

is a net which has apertures or holes all over. Accordingly, Applicant submits that amended claim 1 is patently distinct from the combination of Johnson and Adams and in condition for allowance.

Claims 13-20 include similar subject matter and more specifically, these claims have been amended to include "a solid side wall." As stated above, Applicant submits that the combination of Johnson and Adams does not disclose or suggest such subject matter and therefore, claims 13 and 20 and the claims that depend therefrom are each patently distinct from the combination of Johnson and Adams and are in condition for allowance.

Claims 10 and 11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Johnson in view of Adams and in further view of U.S. Patent No. 5,775,023 to Botkins ("Botkins"). Applicant respectfully disagrees with and traverse this rejection for the following reasons.

As stated above, the combination of Johnson and Adams does not disclose or suggest the subject matter of amended claim 1. Botkins does not remedy the deficiencies of Johnson and Adams.

Botkins discloses a device for applying a bait composition to a fishing lure or similar device (see the Abstract). Botkins discloses a handle 11 and a body 18 which are non-rotatably connected together. Furthermore, Botkins has an open first end and second end where a fishing lure could be removed from either end of the device. Accordingly, Applicant submits that amended claim 1, amended claim 10 and claim 11, which depends from amended claim 10, are both patently distinct over the combination of Johnson, Adams and Botkins and in condition for allowance.

In light of the above, Applicant respectfully submits that claims 1-4, 7, 9-11, 13-17 and 19-22 are patentable and non-obvious over the art of record because the cited art does not disclose, teach or suggest the subject matter of the claimed invention. Accordingly, Applicant respectfully requests that claims 1-4, 7, 9-11, 13-17 and 19-22 be deemed allowable at this time and that a timely Notice of Allowance be issued in this case.

No fees are due. If any fees are due in connection with this application, the Patent Office is authorized to deduct the fees from Deposit Account Number 07-2069. If such a withdrawal is made, please indicate the Attorney Docket Number (4640.78701) on the account statement.

Respectfully submitted,

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